

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA

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Barbara Staples, as Trustee for the  
Next-of-Kin of Daniel Staples, deceased,

Plaintiff,

vs.

Bradley C. Thaemert, M.D., and the  
Surgical Institute of South Dakota, a  
South Dakota corporation,

Defendants.

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Case No. 09-cv-00264-DWF-JJK

**DEFENDANTS' MOTION TO  
DISMISS OR, IN THE  
ALTERNATIVE, MOTION FOR  
CHANGE OF VENUE**

Defendants Bradley C. Thaemert, M.D., and the Surgical Institute of South Dakota move to dismiss Plaintiff's Complaint (Doc. 1) under FED. R. CIV. P. 12(b) on the following grounds:

- (1) The Defendants are not subject to personal jurisdiction of this Court;
- (2) Venue in the United States District Court of Minnesota is improper; and
- (3) Defendant Surgical Institute of South Dakota has not been properly served, as shown by the affidavits of Bradley C. Thaemert, M.D., and Mark Hatting.

In the alternative, Defendants Bradley C. Thaemert, M.D., and the Surgical Institute of South Dakota move this Court to transfer venue of this action pursuant to 28 U.S.C. § 1404 to the more convenient forum of the United States District of South Dakota.

Dated: 2 March 2009

s/ Mark W. Haigh

Mark W. Haigh (Bar # 214905)

Edwin E. Evans (pro hac vice)

Attorneys for Defendants

Davenport, Evans, Hurwitz & Smith, L.L.P.

206 West 14<sup>th</sup> Street – PO Box 1030

Sioux Falls, SD 57101-1030

Telephone: (605) 336-2880

Facsimile: (605) 335-3639

E-mail: [mhaigh@dehs.com](mailto:mhaigh@dehs.com)